



STATE OF CALIFORNIA  
FAIR POLITICAL PRACTICES COMMISSION  
1102 Q Street • Suite 3000 • Sacramento, CA 95811  
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## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the Commission), under the authority vested in it under the Political Reform Act (the Act)<sup>1</sup> by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulation at a public hearing on or after **July 21, 2022**, at the offices of the Fair Political Practices Commission, 1102 Q Street, Suite 3000, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments should be received at the Commission offices no later than **5:00 p.m. on July 19, 2022**.

### BACKGROUND/OVERVIEW:

The Act prohibits persons from making, and committees from receiving, cash contributions of \$100 or more. Committees are also prohibited from making expenditures of \$100 or more in cash. Section 84300 provides:

“(a) No contribution of one hundred dollars (\$100) or more shall be made or received in cash. A cash contribution shall not be deemed received if it is not negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported. If a cash contribution, other than a late contribution, as defined in Section 82036, is negotiated or deposited, it shall not be deemed received if it is refunded within 72 hours of receipt. In the case of a late contribution, as defined in Section 82036, it shall not be deemed received if it is returned to the contributor within 48 hours of receipt.

“(b) No expenditure of one hundred dollars (\$100) or more shall be made in cash.

“(c) No contribution of one hundred dollars (\$100) or more other than an in-kind contribution shall be made unless in the form of a written instrument containing the name of the donor and the name of the payee and drawn from the account of the donor or the intermediary, as defined in Section 84302.

“(d) The value of all in-kind contributions of one hundred dollars (\$100) or more shall be reported in writing to the recipient upon the request in writing of the recipient.”

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

Additionally, Section 85201 provides that all contributions or loans made to a candidate, or the candidate's controlled committee, shall be deposited into a single campaign bank account. This is typically, referred to as the "one-bank account" rule.

The Commission voted to prohibit the making and receipt of cryptocurrency contributions with the adoption of Regulation 18215.4 in September 2018, which states "[n]o contribution may be made or received in cryptocurrency."

#### REGULATORY ACTION:

The Commission may review and consider all aspects of the cryptocurrency contribution regulation, including, but not limited to, the repeal of the existing prohibition, and the adoption of regulatory language to allow a committee to solicit contributions in cryptocurrency as in-kind contributions. The Commission may also consider all aspects of the new regulation that would allow cryptocurrency contributions. While the Commission may review and consider any aspect of Regulation 18421.2, it is anticipated that the Commission will specifically consider each of the following proposals made by Commission staff:

Repeal 2 Cal. Code Regs. Section 18215.4 which prohibits the making and receipt of contributions in cryptocurrency.

Adopt 2 Cal. Code Regs. Section 18421.2

It is anticipated the Commission will consider provisions:

- Allowing a person to make, and a committee to solicit, a contribution in cryptocurrency as an in-kind contribution. A committee must ensure that any cryptocurrency contribution be made and received through a U. S. based cryptocurrency payment processor or other service amenable to a subpoena for records, which utilizes and rigorously enforces know your customer (KYC) protocols to verify the identity of the contributor for all contributors at any amount. These procedures must enable the payment processor to form a reasonable belief that it knows the true identity of each contributor.
- Requiring committees to use a payment processor that collects the name, address, occupation, and employer of each contributor at the time the contribution is made and transmit this to the committee within 24 hours of the time the contribution is made. A committee may not accept any contributions from a contributor where the payment processor has not verified the identity of the contributor and proved the required contributor information to the committee.
- Requiring that a committee utilize a payment processor which will immediately convert any cryptocurrency contribution to U.S. dollars at the prevailing rate of exchange at the time the contribution is made. The amount of the contribution is the fair market value of the cryptocurrency at the time the payment processor obtains possession of the contribution. The funds must be deposited into the committee's campaign bank account within two business days of receipt. Any charge incurred or discount received in the payment collection process must be reported in the same manner as credit card transactions.

#### SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or any related issues.

#### FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY:

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Act.

#### REFERENCE:

The purpose of this regulation is to implement, interpret, and make specific Government Code Sections 84300 and 85201.

#### CONTACT:

Any inquiries should be made to Zachary Norton, Fair Political Practices Commission, 1102 Q St., Suite 3000, Sacramento, CA 95811; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/the-law/fppc-regulations/proposed-regulations-and-notices.html>.